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MEMORANDUM ENDORSED

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December 9, 2021

BY ECF

Honorable Gregory H. Woods
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Stephen Joseph Fantozzi v. City of New York, et al.
21 CV 04439 (GHW)

Your Honor:

I am an Assistant Corporation Counsel in the Office of Georgia M. Pestana, Corporation Counsel of the City of New York, and the attorney for defendant City of New York ("City") in the above-mentioned matter. I write on behalf of the parties to jointly respectfully request an adjournment of the initial conference currently scheduled for 4:00 p.m. on December 16, 2021 to a date and time convenient for the court after the conclusion of the mediation scheduled pursuant to Local Civil Rule 83.10(8). This is the parties first joint request for an adjournment of the initial conference, however, defendant City previously requested an adjournment of the initial conference which was partially granted. Upon information and belief, this extension will not affect any other Court-ordered deadlines in this litigation.

By way of background, plaintiff brings this action, pursuant to 42 U.S.C. § 1983, alleging *inter alia*, false arrest, excessive force, and failure to intervene related to a May 18, 2018 incident. In addition to the City, plaintiff also names Police Officer Anthony P. Sclafani, Commanding Officer Angel L. Figueroa, Jr., and Police Officers John and Jane Doe 1 through 10 as defendants in this action.¹ On May 18, 2021, this case was designated for participation in Local Civil Rule 83.10 (hereinafter "the Plan").

Per the Plan, the parties are to have their Rule 26(f) conference within 14 days after the first defendant files its answer; initial disclosures should be exchanged within 21 days after

¹ Upon information and belief, and upon review of the docket sheet in this matter purported defendants Anthony P. Sclafani and Angel L. Figueroa, Jr. have not been served with the summons and complaint.

the first defendant files its answer; and the limited discovery required under the Plan must be completed within 28 days after the first defendant files its answer. (See S.D.N.Y. Local Civ. R. 83.10 §§ 4-5.) All other discovery is stayed, and the parties shall engage in settlement discussions and either have a settlement conference with a Magistrate Judge or a mediation session with a Southern District mediator within 14 weeks after the first defendant files its answer. (See S.D.N.Y. Local Civ. R. 83.10 §§ 5, 7-8.)

On July 8, 2021, the undersigned requested an adjournment of the initial conference scheduled for August 20, 2021 because defendant was unable to calculate its deadline to respond to the Complaint in accordance with Local Civil Rule 83.10. Defendant was unable to calculate that deadline because we had not yet received the § 160.50 release from plaintiff.² On July 8, 2021, Your Honor partially granted defendant City's request and adjourned the initial conference until December 16, 2021. (ECF No. 12).

Following the receipt of the § 160.50 release on August 24, 2021, defendant City of New York filed its answer on October 25, 2021. (ECF No. 13) Subsequently, defendant City provided plaintiff its disclosures pursuant to the Plan on November 19, 2021, and the parties conferred with the mediator assigned to this matter and scheduled a mediation for January 26, 2022.

As an initial matter, the parties apologize for not having requested an adjournment of the initial conference earlier. In preparing the joint letter and proposed case management plan which are due to be filed by today pursuant to Your Honor's July 8, 2021 Order, we recognized that an initial conference in this matter would likely be more useful following mediation if this case does not settle. Because this matter is still in the process of the Plan, the parties respectfully request that the Court allow the parties to go through mediation prior to attending an initial conference, as it may not be necessary should this case resolve before or at mediation. Should the Court grant the within request, pursuant to the Plan, the parties will promptly notify the Court regarding whether an initial conference is necessary following the mediation.

Accordingly, the parties respectfully requests an adjournment of the initial conference currently scheduled for December 16, 2021 at 4 p.m. following the conclusion of the mediation as set forth in in Local Civil Rule 83.10(8). To that end, the parties respectfully submit the following proposed alternative dates for the initial conference: February 3, 2022, February 9, 2022, February 10, 2022 or February 24, 2022.

To the extent the Court does not grant the within request, the parties will be prepared to provide our joint letter and proposed case management plan immediately.

² Per the Plan, if the § 160.50 release is served on the City after the complaint is first served on a defendant, each defendant will have the greater of (i) 60 days from the date of the § 160.50 release is served on the City, or (ii) 60 days after that defendant is served, to answer the complaint.

The parties thank the Court for its time and consideration.

Respectfully submitted,

Inna Shapovalova

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Assistant Corporation Counsel
Special Federal Litigation Division


cc: **BY ECF**
Joseph Michael Stancati, Esq.,
Attorney for Plaintiff

Application granted. The initial pretrial conference scheduled for December 16, 2021 is adjourned to February 9, 2022 at 3:00 p.m. The joint letter and proposed case management plan described in the Court's May 19, 2021 order are due no later than February 2, 2022.

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 14.

SO ORDERED.

Dated: December 9, 2021
New York, New York



GREGORY H. WOODS
United States District Judge